



General Assembly

**Amendment**

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LCO No. 5854

**\*SB0115205854SR0\***

Offered by:

SEN. MCKINNEY, 28<sup>th</sup> Dist.

SEN. FASANO, 34<sup>th</sup> Dist.

SEN. RORABACK, 30<sup>th</sup> Dist.

To: Senate Bill No. 1152

File No. 660

Cal. No. 444

**"AN ACT CONCERNING THE DISCLOSURE OF CERTAIN  
REPORTS AND THE DEFINITION OF INVASION OF PERSONAL  
PRIVACY UNDER THE FREEDOM OF INFORMATION ACT."**

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Section 4-61dd of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective July 1, 2009*):

5 (a) Any person having knowledge of any matter involving  
6 corruption, unethical practices, violation of state laws or regulations,  
7 mismanagement, gross waste of funds, abuse of authority or danger to  
8 the public safety occurring in any state department or agency or any  
9 quasi-public agency, as defined in section 1-120, or any person having  
10 knowledge of any matter involving corruption, violation of state or  
11 federal laws or regulations, gross waste of funds, abuse of authority or  
12 danger to the public safety occurring in any large state contract, may  
13 transmit all facts and information in such person's possession

14 concerning such matter to the Auditors of Public Accounts. The  
15 Auditors of Public Accounts shall review such matter and [report their  
16 findings and any recommendations to the Attorney General. Upon  
17 receiving such a report, the Attorney General shall] make such  
18 investigation as the [Attorney General deems] Auditors of Public  
19 Accounts deem proper regarding such [report] matter and any other  
20 information that may be reasonably derived from such [report] matter.  
21 [Prior to conducting an investigation of any information that may be  
22 reasonably derived from such report, the Attorney General shall  
23 consult with the Auditors of Public Accounts concerning the  
24 relationship of such additional information to the report that has been  
25 issued pursuant to this subsection. Any such subsequent investigation  
26 deemed appropriate by the Attorney General shall only be conducted  
27 with the concurrence and assistance of the Auditors of Public  
28 Accounts. At the request of the Attorney General or on their own  
29 initiative, the auditors shall assist in the investigation.] The [Attorney  
30 General] Auditors of Public Accounts shall have power to summon  
31 witnesses, require the production of any necessary books, papers or  
32 other documents and administer oaths to witnesses, where necessary,  
33 for the purpose of an investigation pursuant to this section. Upon the  
34 conclusion of the investigation, the [Attorney General] Auditors of  
35 Public Accounts shall where necessary, report any findings to the  
36 Governor, or in matters involving criminal activity, to the Chief State's  
37 Attorney. In addition to the exempt records provision of section 1-210,  
38 the Auditors of Public Accounts [and the Attorney General] shall not,  
39 after receipt of any information from a person under the provisions of  
40 this section, disclose the identity of such person without such person's  
41 consent unless the Auditors of Public Accounts [or the Attorney  
42 General] determines that such disclosure is unavoidable, and may  
43 withhold records of such investigation, during the pendency of the  
44 investigation.

45 (b) The Auditors of Public Accounts may make application to a  
46 panel of three Superior Court Judges, appointed by the Chief Court  
47 Administrator, for the issuance of a subpoena whenever such

48 subpoena is necessary in order to obtain information which is not  
49 otherwise available and which is needed in the performance of the  
50 Auditors of Public Accounts' duties. Any person aggrieved by the  
51 issuance of a subpoena by the Auditors of Public Accounts may  
52 petition the Superior Court for relief.

53 [(b)] (c) (1) No state officer or employee, as defined in section 4-141,  
54 no quasi-public agency officer or employee, no officer or employee of a  
55 large state contractor and no appointing authority shall take or  
56 threaten to take any personnel action against any state or quasi-public  
57 agency employee or any employee of a large state contractor in  
58 retaliation for such employee's or contractor's disclosure of  
59 information to (A) an employee of the Auditors of Public Accounts [or  
60 the Attorney General] under the provisions of subsection (a) of this  
61 section; (B) an employee of the state agency or quasi-public agency  
62 where such state officer or employee is employed; (C) an employee of  
63 a state agency pursuant to a mandated reporter statute; or (D) in the  
64 case of a large state contractor, an employee of the large state  
65 contractor or the contracting state agency concerning information  
66 involving the large state contract.

67 (2) If a state or quasi-public agency employee or an employee of a  
68 large state contractor alleges that a personnel action has been  
69 threatened or taken in violation of subdivision (1) of this subsection,  
70 the employee may notify the [Attorney General] Auditors of Public  
71 Accounts, who shall investigate pursuant to subsection (a) of this  
72 section. If the Auditors of Public Accounts determine that such  
73 personnel action was in retaliation for such employee's or contractor's  
74 disclosure of information pursuant to this section, the Auditors of  
75 Public Accounts may issue such determination to the Chief Human  
76 Rights Referee and the Attorney General shall discontinue any  
77 representation of any state officer, employee or appointing authority,  
78 as applicable, that the Auditors of Public Accounts determined  
79 undertook such retaliatory action.

80 (3) (A) Not later than [thirty] ninety days after learning of the

81 specific incident giving rise to a claim that a personnel action has been  
82 threatened or has occurred in violation of subdivision (1) of this  
83 subsection, a state or quasi-public agency employee, an employee of a  
84 large state contractor or the employee's attorney may file a complaint  
85 against the state agency, the quasi-public agency, or the large state  
86 contractor concerning such personnel action with the Chief Human  
87 Rights Referee designated under section 46a-57. Such complaint may  
88 be amended if an additional incident giving rise to a claim under this  
89 subdivision occurs subsequent to the filing of the original complaint.  
90 The Chief Human Rights Referee shall assign the complaint to a  
91 human rights referee appointed under section 46a-57, who shall  
92 conduct a hearing and issue a decision concerning whether the officer  
93 or employee taking or threatening to take the personnel action violated  
94 any provision of this section. If, during the pendency of the hearing,  
95 the human rights referee has reasonable cause to believe that any  
96 officer or employee has taken personnel action in violation of  
97 subdivision (1) of this subsection, such referee may order temporary  
98 equitable relief, including, but not limited to, an order reinstating the  
99 person filing the complaint to the same position held before such  
100 personnel action was taken. If, after the hearing, the human rights  
101 referee finds [such] a violation, the referee may award the aggrieved  
102 employee reinstatement to the employee's former position, back pay  
103 and reestablishment of any employee benefits for which the employee  
104 would otherwise have been eligible if such violation had not occurred,  
105 reasonable attorneys' fees, and any other damages. The human rights  
106 referee shall forward the decision finding such violation and award to  
107 the head of the agency and the supervisor of the employee or officer  
108 who violated subdivision (1) of this subsection who shall take  
109 appropriate personnel action. For the purposes of this subsection, such  
110 human rights referee shall act as an independent hearing officer. The  
111 decision of a human rights referee under this subsection may be  
112 appealed by any person who was a party at such hearing, in  
113 accordance with the provisions of section 4-183.

114 (B) The Chief Human Rights Referee shall adopt regulations, in

115 accordance with the provisions of chapter 54, establishing the  
116 procedure for filing complaints and noticing and conducting hearings  
117 under subparagraph (A) of this subdivision.

118 (4) As an alternative to the provisions of subdivisions (2) and (3) of  
119 this subsection: (A) A state or quasi-public agency employee who  
120 alleges that a personnel action has been threatened or taken may file an  
121 appeal not later than [thirty] ninety days after learning of the specific  
122 incident giving rise to such claim with the Employees' Review Board  
123 under section 5-202, or, in the case of a state or quasi-public agency  
124 employee covered by a collective bargaining contract, in accordance  
125 with the procedure provided by such contract; or (B) an employee of a  
126 large state contractor alleging that such action has been threatened or  
127 taken may, after exhausting all available administrative remedies,  
128 bring a civil action in accordance with the provisions of subsection (c)  
129 of section 31-51m.

130 (5) In any proceeding under subdivision (2), (3) or (4) of this  
131 subsection concerning a personnel action taken or threatened against  
132 any state or quasi-public agency employee or any employee of a large  
133 state contractor, which personnel action occurs not later than [one  
134 year] three years after the employee first transmits or discloses facts  
135 and information concerning a matter under subsection (a) of this  
136 section or subdivision (1) of this subsection to the Auditors of Public  
137 Accounts [or the Attorney General] or an employee of the state agency,  
138 quasi-public agency or large state contractor, as applicable, there shall  
139 be a rebuttable presumption that the personnel action is in retaliation  
140 for the action taken by the employee under subsection (a) of this  
141 section or subdivision (1) of this subsection.

142 (6) If a state officer or employee, as defined in section 4-141, a quasi-  
143 public agency officer or employee, an officer or employee of a large  
144 state contractor or an appointing authority takes or threatens to take  
145 any action to impede, fail to renew or cancel a contract between a state  
146 agency and a large state contractor, or between a large state contractor  
147 and its subcontractor, in retaliation for the disclosure of information

148 pursuant to subsection (a) of this section or subdivision (1) of this  
149 subsection to any agency listed in subdivision (1) of this subsection,  
150 such affected agency, contractor or subcontractor may, not later than  
151 ninety days after learning of such action, threat or failure to renew,  
152 bring a civil action in the superior court for the judicial district of  
153 Hartford to recover damages, attorney's fees and costs.

154 [(c)] (d) Any employee of a state or quasi-public agency or large  
155 state contractor, who is found to have knowingly and maliciously  
156 made false charges under subsection (a) of this section, shall be subject  
157 to disciplinary action by such employee's appointing authority up to  
158 and including dismissal. In the case of a state or quasi-public agency  
159 employee, such action shall be subject to appeal to the Employees'  
160 Review Board in accordance with section 5-202, or in the case of state  
161 or quasi-public agency employees included in collective bargaining  
162 contracts, the procedure provided by such contracts.

163 [(d)] (e) On or before September first, annually, the Auditors of  
164 Public Accounts shall submit to the clerk of each house of the General  
165 Assembly a report indicating the number of matters for which facts  
166 and information were transmitted to the auditors pursuant to this  
167 section during the preceding state fiscal year and the disposition of  
168 each such matter.

169 [(e)] (f) Each contract between a state or quasi-public agency and a  
170 large state contractor shall provide that, if an officer, employee or  
171 appointing authority of a large state contractor takes or threatens to  
172 take any personnel action against any employee of the contractor in  
173 retaliation for such employee's disclosure of information [to any  
174 employee of the contracting state or quasi-public agency or the  
175 Auditors of Public Accounts or the Attorney General under the  
176 provisions of] pursuant to subdivision (1) of subsection (c) of this  
177 section or subsection (a) of this section, the contractor shall be liable for  
178 a civil penalty of not more than five thousand dollars for each offense,  
179 up to a maximum of twenty per cent of the value of the contract. Each  
180 violation shall be a separate and distinct offense and in the case of a

181 continuing violation each calendar day's continuance of the violation  
182 shall be deemed to be a separate and distinct offense. The executive  
183 head of the state or quasi-public agency may request the Attorney  
184 General to bring a civil action in the superior court for the judicial  
185 district of Hartford to seek imposition and recovery of such civil  
186 penalty.

187 ~~[(f)]~~ (g) Each large state contractor shall post a notice of the  
188 provisions of this section relating to large state contractors in a  
189 conspicuous place which is readily available for viewing by the  
190 employees of the contractor.

191 ~~[(g)]~~ (h) No person who, in good faith, discloses information [to the  
192 Auditors of Public Accounts or the Attorney General] in accordance  
193 with the provisions of this section shall be liable for any civil damages  
194 resulting from such good faith disclosure.

195 (i) In accordance with the provisions of section 4-38d, all employees  
196 of the office of the Attorney General who are employed in the  
197 whistleblower division shall be transferred to the office of the Auditors  
198 of Public Accounts not later than July 1, 2009.

199 ~~[(h)]~~ (j) As used in this section:

200 (1) "Large state contract" means a contract between an entity and a  
201 state or quasi-public agency, having a value of five million dollars or  
202 more; and

203 (2) "Large state contractor" means an entity that has entered into a  
204 large state contract with a state or quasi-public agency.

205 Sec. 502. (NEW) (*Effective July 1, 2009*) (a) Not later than September  
206 1, 2009, the Attorney General, within available appropriations, shall  
207 submit to the chairs and ranking members of the joint standing  
208 committees of the General Assembly having cognizance of matters  
209 relating to labor and government administration, the Governor and the  
210 Auditors of Public Accounts a report indicating the number of: (1)

211 Matters referred by the Auditors of Public Accounts to the Attorney  
212 General, pursuant to section 4-61dd of the general statutes, as  
213 amended by this act, during the last ten years, and (2) reports or  
214 complaints received from any other person involving alleged  
215 corruption, unethical practices, violation of state law or regulation,  
216 mismanagement, gross waste of funds, abuse of authority or danger to  
217 the public safety occurring in any state department, agency, quasi-  
218 public agency or large state contract during the last ten years. For each  
219 such matter, report or complaint, the Attorney General's report shall  
220 indicate: (A) The general nature of the matter, report or complaint, (B)  
221 the scope of any investigation undertaken in response to such matter,  
222 report or complaint, (C) the findings of such investigation, and (D)  
223 whether the findings were reported to the Governor, the Chief State's  
224 Attorney or any other third party for further investigation or corrective  
225 action.

226 (b) On or before September first of each year following the issuance  
227 of the report described in subsection (a) of this section, the Attorney  
228 General, within available appropriations, shall submit an annual  
229 report updating the information provided in the report submitted  
230 pursuant to subsection (a) of this section. Such annual report shall  
231 provide an update of pending matters and contain the information  
232 described in subsection (a) of this section for any new matters, reports  
233 or complaints received by the Attorney General.

234 (c) Nothing in this section shall be deemed to require or authorize  
235 the Attorney General to disclose the identity of any person that  
236 provided information pursuant to section 4-61dd of the general  
237 statutes, as amended by this act.

238 Sec. 503. (*Effective July 1, 2009*) Not later than February 1, 2010, the  
239 Attorney General, within available appropriations, shall submit, in  
240 accordance with the provisions of section 11-4a of the general statutes,  
241 to the chairs and ranking members of the joint standing committees of  
242 the General Assembly having cognizance of matters relating to labor  
243 and government administration the office policy historically utilized

244 by the Attorney General to assure that information received by the  
245 whistleblower division within the office of the Attorney General was  
246 not shared with the applicable respondent state agency or the assistant  
247 attorney general who represented the applicable respondent state  
248 agency."